

## BOARD OF PODIATRIC MEDICINE

### ORDER OF ADOPTION

Title 16, Division 13.9, California Code of Regulations

#### ARTICLE 1. GENERAL PROVISIONS

§ 1399.650. Citation

This ~~chapter~~ division may be cited and referred to as the “Podiatric Medicine Regulations.”

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#### ARTICLE 9. INFORMATION DISCLOSURE

##### **§ 1399.700.**                    **Statement of Policy.**

It is the policy of the Board of Podiatric Medicine to permit the maximum public access to information in its possession consistent with the requirements of the California Public Records Act (Govt. Code § 6250 et seq.), the Information Practices Act (Civ. Code § 1798 et seq.), Section 803.1 of the Business & Professions Code and the individual’s right of privacy guaranteed by the California Constitution (Art. I, § 1).

NOTE: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; Section 6253 Government Code.

Reference: Sections 803 and 803.1, Business and Professions Code; Sections 6250 and 6253, Government Code.

##### **§ 1399.701.**                    **Status of Licensees.**

The Board shall use the following categorical description when referring to licensed doctors of podiatric medicine either in response to public inquiries or in posting information on its website.

(a)    A licensed doctor of podiatric medicine is not considered to be in “good standing” if he or she:

1)     Is subject to an order issued by the Board or any other civil, criminal or

- administrative court or agency that limits or in any way restricts his or her practice.
- 2) Has entered into a settlement with either the Board, any other administrative agency, the Attorney General, or any civil or criminal prosecutor which in any way limits or restricts his or her practice.
  - 3) Has been suspended following conviction of any crime referred to in Business and Professions Code Section 2237 or Penal Code Sections 187, 261, 262, or 288.
  - 4) Has been incarcerated following conviction of a felony.
- (b) Any licensed doctor of podiatric medicine who does not have a “good standing” designation may petition the Board to have this designation changed. The petition shall be heard before an administrative law judge designated in Section 11371 of the Government Code and pursuant to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code).

NOTE: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; Section 6253, Government Code.

Reference: Sections 803, 803.1, 2027, 2236.1, Business and Professions Code; Section 11504, Government Code.

**§ 1399.702.**                    **Standard Terminology Describing Different Types of Disciplinary Actions Listed in Subdivision (a) of Section 803.1 of the Business and Professions Code.**

(a)    Temporary Restraining Order

A temporary restraining order is a procedural device which State agencies can seek to prevent violations of the law or to suspend a license before formal disciplinary action is taken. It is also used to preserve the status quo or prevent the occurrence of irreparable injury pending further judicial or administrative proceedings. Such an order can only be issued by a court. Except in very severe emergency situations, the agency must give the licensee notice in order that he or she can be heard by the court.

(b)    Interim Suspension Order

Interim suspension orders may be issued by administrative law judges following an application by the Board when it appears that continued practice by a doctor of podiatric medicine would endanger the public health, safety, or welfare. The doctor

of podiatric medicine is entitled to advance notice of such proceedings unless there is a showing that serious injury will result to the public before a hearing can be held. If an interim suspension order is issued, an accusation must be filed by the Board, a hearing conducted, and a decision issued by the administrative law judge on a very accelerated time frame. If these deadlines are not met, the interim suspension order is dissolved by operation of law.

(c) Revocations, suspensions, probations, or limitations on practice ordered by the Board

These penalties may be imposed by the Board, but only after the doctor of podiatric medicine is notified of such proposed action and given an opportunity to be heard before an independent administrative law judge. The most severe penalty is revocation of the license to practice. Lesser penalties include a specified period of probation including the imposition of limitations on the manner or type of practice by the doctor of podiatric medicine.

(d) Public Letters of Reprimand

Public letters of reprimand or reproof may be issued by the Board for any act that would constitute grounds to suspend or revoke the license of a doctor of podiatric medicine. Letters of reprimand shall be purged from the file of the doctor of podiatric medicine five (5) years after they are issued.

(e) Infractions, citations or fines

A citation is issued by the Board for violations of specified provisions of law found in the Business and Professions Code. The citation may contain an order to stop performing some activity (order of abatement) and/or levy a fine. Any doctor of podiatric medicine served with a citation has a right to a hearing before an independent administrative law judge.

NOTE: Authority cited: Section 803.1 Business and Professions Code.

Reference: Section 803.1, Business and Professions Code.

**§ 1399.7003. Requirements for Information Disclosure.**

The Board of Podiatric Medicine will disclose the following information, if known, upon any request regarding any doctor of podiatric medicine licensed in California:

(a) Current status of a license, issuance and expiration date of a license, podiatric medical school of graduation, and date of graduation.

(b) Any public action or administrative decision against any doctor of podiatric medicine, and any disposition thereof, taken by the Board, another state or the Federal Government including, but not limited to:

- 1) the filing of an accusations; ~~decisions;~~
- 2) licensure revocations;
- 3) denial of an application for licensure;
- 4) temporary restraining orders;
- 5) interim suspension orders;
- 6) citations, infractions, or fines imposed;
- 7) limitations on practice ordered by the board including those made part of a probationary order or stipulated agreement; and
- 8) public letters of reprimand.

The following disclaimer shall be included with these disclosures:

“Any adverse judgment or administrative order is subject to appeal or challenge by the doctor of podiatric medicine. For example, if an order revoking the license of a doctor of podiatric medicine is adopted by the Board, he or she can challenge that order by filing a petition for a writ of mandamus in superior court. If this court determines the order was issued contrary to law, it can vacate the Board’s action and order that the doctor of podiatric medicine be reinstated.”

(c) Accusations which have been filed and later withdrawn shall be retained in the board’s files for a period of one year after the accusation was withdrawn.

~~(c) Medical malpractice judgments in excess of \$30,000 reported to the board on or after January 1, 1993, including the amount of judgement, the date of the judgement, the court of jurisdiction, the case number, a brief summary of the circumstances as provided by the court, and an appropriate disclaimer including, but not limited to, the accuracy of the information provided.~~

~~(d) Discipline imposed by another state or the federal government reported to the Board on or after January 1, 1991, including the discipline imposed, the date of the discipline, the state where the discipline was imposed, and an appropriate disclaimer including, but not limited, to the accuracy of the information provided.~~

(d) Civil judgments in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice by a doctor of podiatric medicine, or by his or her rendering unauthorized professional services, whether or not vacated by a settlement after entry of the judgment, and not reversed on appeal, including the date and amount of judgment, the court and case number, a brief summary of the circumstances as provided by the court, plus any information the Board possesses pertaining to the disposition of the case following

entry of judgment. The Board shall also include the following disclaimer with such disclosures:

“Any civil judgment is subject to appeal by the losing party. For example, if a judgment is entered against a doctor of podiatric medicine, he or she can appeal to a higher court. If this court determines the judgment was entered in error, it can either vacate it or reduce the amount of any money damages awarded against the podiatrist.”

(e) Arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the negligence, error, or omission in practice of the doctor of podiatric medicine, or by his or her rendering unauthorized professional services.

(f) California felony convictions reported to the board on or after January 1, 1991, including the nature of the conviction, the date of conviction, the sentence, if known, the court of jurisdiction, and an appropriate disclaimer including, but not limited to, the accuracy of the information provided.

(g) Summaries of any disciplinary actions taken at a hospital or any other type of health care facility that result in the termination or revocation of staff privileges of a doctor of podiatric medicine for medical disciplinary cause or reason.

(h) Matters that have been referred to the Attorney General for the filing of an accusation or statement of issues; provided that:

- 1) The matter has not been rejected by the Attorney General; and
- 2) The following disclaimer accompanies the disclosure:

“Referral of a matter to the Attorney General for the filing of an accusation or statement of issues only occurs after an investigation has been conducted by the Board and a determination has been made that the actions of the podiatrist are of a nature that should warrant disciplinary action. In some instances, however, the Attorney General may determine that disciplinary action is not warranted. Such cases will normally not result in the filing of a formal accusation. When an accusation is filed, the podiatrist will be given notice and the right to request a hearing before an independent administrative law judge. At such a hearing the Board has the burden of proving the allegations contained in the allegation. Unless a legal determination is made that the Board has sustained this burden, no disciplinary action may be taken against the doctor of podiatric medicine.”

NOTE: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; Section 6253, Government Code.

Reference: Sections 803 and 803.1, Business and Professions Code.

**1399.704****Disclosure of Complaints.**

The Board shall maintain records showing the complaints received against doctors of podiatric medicine and, with respect to such complaints, shall make available to inquiring members of the public the following information:

(a) The nature of all complaints on file which have been investigated by the Board and referred for legal action to the Attorney General, including:

- 1) The date of the complaint;
- 2) A brief summary of the nature of the complaint; and
- 3) Its disposition.

(b) Under no circumstances shall the name, identity, or information that might lead to the discovery of the identity of the complainant be disclosed.

(c) Information concerning the complaint shall be accompanied by the disclaimer set out in Section 1399.703(h)(2). If no action is taken by the Attorney General, records of the complaint shall be deleted from the Board's complaint disclosure system no later than one year after receipt of the decision by the Attorney General to take no action.

(d) If a complaint results in legal action and is subsequently determined by the Board, the Attorney General, or a court of competent jurisdiction not to have merit, it shall be deleted from the complaint disclosure system.

NOTE: Authority cited: Sections 803.1 and 2470, Business and Professions Code; Section 6253, Government Code.

Reference: Sections 803 and 803.1, Business and Professions Code; Section 6250, Government Code; Section 1798.24, Civil Code.

**1399.705****Disclosure of Civil Settlements.**

Upon request, the Board will disclose information in its possession concerning settlements entered into on or after January 1, 2003 of civil actions seeking recovery of damages for death or personal injury caused by the professional negligence, errors, or omissions of a doctor of podiatric medicine or his or her unauthorized practice pursuant to Business and Professions Code Section 803.1(b) & 803.1(c) and regulations promulgated by the Medical Board of California.

NOTE: Authority cited: Sections 803.1 and 2470, Business and Professions Code; Section 6253, Government Code.

Reference: Section 803.1, Business and Professions Code; Section.

**1399.706**

**Disclosure of Information Concerning Licensed Doctors of Podiatric Medicine on the Board's Website.**

For each licensed doctor of podiatric medicine, the Board will maintain on its website all of the information described in subdivision (a) of Section 1399.703 of these regulations as well as information on whether the doctor of podiatric medicine is in "good standing" as that term is used in Section 1399.701. If the doctor of podiatric medicine is not in good standing, the website shall indicate what restrictions, legal actions, orders, or discipline are currently pending.

NOTE: Authority cited: Sections 803, 803.1 and 2470, Business and Professions Code; Section 6253, Government Code.  
Reference: Sections 803.1 and 2470, Business and Professions Code.

**ARTICLE 10. CORRECTIVE SHOES**

**§1399.7057.**

**Sale of Corrective Shoes by Unlicensed Persons.**

No other changes